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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,419	11/05/2003	John N. Hryni	0003/01398	8338
27197	7590	12/14/2006	EXAMINER	
CHERSKOV & FLAYNIK THE CIVIC OPERA BUILDING 20 NORTH WACKER DRIVE, SUITE 1447 CHICAGO, IL 60606			SMITH, NICHOLAS A	
		ART UNIT	PAPER NUMBER	
			1742	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



**Commissioner for Patents
United States Patent and Trademark Office
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APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

10/702,419

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 9/25/06 is improper for reason(s) indicated below:

- 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

See attachment.

A copy of this notice *MUST* be returned with any reply.

Direct the reply and any questions about this notice to:

Roy King R, Examining Group AU1742
(700-00-571)272-1244

SN 10/702,419

The RCE filed 9/25/06 was not accompanied by a fully responsive submission according to MPEP 706.07(h)VI and 37 CFR 1.145 because applicants amended claim 1 to incorporate the anode and present new claim 21 of electrolyte-anode, therefore, applicants switched the invention from composition claims (i.e. electrolyte) to apparatus claims (i.e. anode).